

1999 Senate Bill 125

Date of enactment: **May 3, 2000**
Date of publication*: **May 17, 2000**

1999 WISCONSIN ACT 109

(Vetoed in Part)

AN ACT to *repeal* 346.65 (6) (a) 2., 346.65 (6) (m) and 347.413 (2); to *renumber and amend* 940.09 (1d) and 940.25 (1d); to *amend* 20.435 (6) (hx), 125.07 (4) (bs) 2., 125.07 (4) (bs) 3. and 4., 125.07 (4) (c) 2., 125.07 (4) (c) 3. and 4., 125.07 (4) (e) 2. (intro.), 340.01 (46m) (b), 342.12 (4) (a), 342.12 (4) (b), 342.12 (4) (c) 1. (intro.), 343.10 (5) (a) 3., 343.23 (2) (b), 343.30 (1q) (b) 1., 343.30 (1q) (b) 3., 343.30 (1q) (b) 4., 343.30 (6) (b) (intro.), 343.305 (10) (b) 1., 343.305 (10) (b) 3., 343.305 (10) (b) 4., 343.305 (10m), 343.31 (3) (bm) 1., 343.31 (3) (bm) 3., 343.31 (3) (bm) 4., 346.65 (2) (b), 346.65 (2) (c), 346.65 (2) (d), 346.65 (2) (e), 346.65 (2e), 346.65 (2g) (a), 346.65 (2g) (b), 346.65 (2g) (c), 346.65 (2j) (b), 346.65 (2j) (c), 346.65 (2w), 346.65 (6) (a) 1., 346.65 (6) (a) 1., 346.65 (6) (a) 2m., 346.65 (6) (a) 3., 346.65 (6) (b), 346.65 (6) (c), 346.65 (6) (d), 346.65 (6) (f), 346.65 (6) (k), 346.655 (1), 346.655 (2) (a), 346.655 (2) (b), 346.95 (2), 347.413 (1), 347.417 (1), 347.417 (2), 800.03 (4), 938.344 (2) (b), 938.344 (2) (c), 938.344 (2b) (b) and 938.344 (2b) (c); and to *create* 20.395 (5) (ek), 51.30 (4) (b) 25., 85.55, 110.10, 303.065 (2m), 303.08 (1) (cg), 303.08 (1) (cm), 303.08 (10m), 340.01 (46m) (c), 343.301, 346.65 (2) (g), 346.65 (2g) (ag), 346.93 (2f), 346.93 (2g), 940.09 (1d) (a) and 940.25 (1d) (a) of the statutes; **relating to:** operating a motor vehicle while under the influence of an intoxicant or drugs, or both; immobilization of, installation of an ignition interlock device on or seizure of motor vehicles for offenses related to driving while under the influence of an intoxicant; absolute sobriety for repeat drunken drivers; restrictions on prisoner release from jail or prison; creating a safe-ride grant program; creating an ignition interlock device program; counting drunk driving offenses; pretrial intoxicated driver intervention grants; requiring a report on incarceration alternatives and ignition interlock devices; certain alcohol beverage offenses committed by persons under the legal drinking age; granting rule-making authority; making appropriations; and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.395 (5) (ek) of the statutes is created to read:

20.395 (5) (ek) *Safe-ride grant program; state funds.* From the general fund, all moneys transferred from the appropriation account under s. 20.435 (6) (hx) for the purpose of awarding grants under s. 85.55.

SECTION 2. 20.435 (6) (hx) of the statutes, as affected by 1999 Wisconsin Act 9, is amended to read:

20.435 (6) (hx) *Services related to drivers, receipts.* The amounts in the schedule for services related to drivers. All moneys received by the state treasurer from the driver improvement surcharge on court fines and forfeitures authorized under s. 346.655 and all moneys transferred from the appropriation account under s. 20.395 (5) (di) shall be credited to this appropriation. The secretary of administration shall annually transfer to the appropriation account under s. 20.395 (5) (ek) 3.76% of all moneys credited to this appropriation from the driver improvement surcharge. Any unencumbered moneys in

* Section 991.11, WISCONSIN STATUTES 1997-98: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

this appropriation account may be transferred to sub. (7) (hy) and ss. 20.255 (1) (hm), 20.285 (1) (ia), 20.395 (5) (ci) and (di) and 20.455 (5) (h) by the secretary of administration after consultation with the secretaries of health and family services and transportation, the superintendent of public instruction, the attorney general and the president of the university of Wisconsin system.

SECTION 3. 51.30 (4) (b) 25. of the statutes is created to read:

51.30 (4) (b) 25. To the department of corrections or to a sheriff, to determine if a person incarcerated is complying with the assessment or the driver safety plan ordered under s. 343.30 (1q) (c).

SECTION 4. 85.55 of the statutes is created to read:

85.55 Safe-ride grant program. The department may award grants to any county or municipality or to any nonprofit corporation, as defined in s. 46.93 (1m) (c), to cover the costs of transporting persons suspected of having a prohibited alcohol concentration, as defined in s. 340.01 (46m), from any premises licensed under ch. 125 to sell alcohol beverages to their places of residence. The amount of a grant under this section may not exceed 50% of the costs necessary to provide the service. The liability of a provider of a safe-ride program to persons transported under the program is limited to the amounts required for an automobile liability policy under s. 344.15 (1). Grants awarded under this section shall be paid from the appropriation under s. 20.395 (5) (ek).

SECTION 6. 110.10 of the statutes is created to read:

110.10 Ignition interlock device program. The department shall promulgate rules providing for the implementation of an ignition interlock device program that will be conveniently available to persons throughout this state. The rules shall include provisions regarding all of following:

(1) The selection of persons to install, service and remove ignition interlock devices from motor vehicles.

(2) The periodic review of the fees charged to the owner of a vehicle for the installation, service and removal of an ignition interlock device.

(3) Requiring ignition interlock device providers operating in this state to establish pilot programs involving the voluntary use of ignition interlock devices.

(4) Requiring ignition interlock device providers operating in this state to provide the department and law enforcement agencies designated by the department with installation, service, tampering and failure reports in a timely manner.

(5) Requiring ignition interlock device providers to notify the department of any ignition interlock device tampering, circumvention, bypass or violation resets, including all relevant data recorded in the device's memory. Upon receiving notice described in this subsection, the department shall immediately provide the notice and data to the assessment agency that is administering the violator's driver safety plan.

SECTION 7. 125.07 (4) (bs) 2. of the statutes is amended to read:

125.07 (4) (bs) 2. For a violation committed within 12 months of a one previous violation, either a forfeiture of not less than \$300 nor more than \$500, ~~suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2.,~~ participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 2., except that if the violation of par. (a) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 2.

SECTION 8. 125.07 (4) (bs) 3. and 4. of the statutes, as affected by 1997 Wisconsin Act 84, are amended to read:

125.07 (4) (bs) 3. For a violation committed within 12 months of 2 previous violations, either a forfeiture of not less than \$500 nor more than \$750, ~~suspension of the person's operating privilege under s. 343.30 (6) (b) 3.,~~ participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (a) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.

4. For a violation committed within 12 months of 3 or more previous violations, either a forfeiture of not less than \$750 nor more than \$1,000, ~~suspension of the person's operating privilege under s. 343.30 (6) (b) 3.,~~ participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (a) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.

SECTION 9. 125.07 (4) (c) 2. of the statutes is amended to read:

125.07 (4) (c) 2. For a violation committed within 12 months of a one previous violation, either a forfeiture of not less than \$200 nor more than \$300, ~~suspension of the person's operating privilege as provided under s. 343.30 (6) (b) 2.,~~ participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 2., except that if the violation of par. (b) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 2.

SECTION 10. 125.07 (4) (c) 3. and 4. of the statutes, as affected by 1997 Wisconsin Act 84, are amended to read:

125.07 (4) (c) 3. For a violation committed within 12 months of 2 previous violations, either a forfeiture of not less than \$300 nor more than \$500, ~~suspension of the person's operating privilege under s. 343.30 (6) (b) 3., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (b) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.~~

4. For a violation committed within 12 months of 3 or more previous violations, either a forfeiture of not less than \$500 nor more than \$1,000, ~~suspension of the person's operating privilege under s. 343.30 (6) (b) 3., participation in a supervised work program or other community service work under par. (cg) or any combination of these penalties. In addition, the person's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of par. (b) involved a motor vehicle the person's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.~~

SECTION 11. 125.07 (4) (e) 2. (intro.) of the statutes is amended to read:

125.07 (4) (e) 2. (intro.) After ordering a penalty under par. (bs) or (c), the court, with the agreement of the defendant, may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed, except that the court may not stay, suspend or modify the suspension of a person's operating privilege required under par. (bs) or (c). The order under this subdivision shall require the defendant to do any of the following:

SECTION 13. 303.065 (2m) of the statutes is created to read:

303.065 (2m) The department may not grant work release privileges to a prisoner who is imprisoned for a violation of s. 346.63 (1), (2), (5) or (6) and who fails to obtain the assessment or to comply with the driver safety plan ordered under s. 343.30 (1q) (c) related to the violation for which he or she was imprisoned. This subsection does not apply if the prisoner does not have sufficient funds to make any payments necessary to obtain the assessment or to comply with the driver safety plan.

SECTION 14. 303.08 (1) (cg) of the statutes is created to read:

303.08 (1) (cg) Attendance at an assessment ordered by a court under s. 343.30 (1q) (c);

SECTION 15. 303.08 (1) (cm) of the statutes is created to read:

303.08 (1) (cm) Attendance at a treatment program required by a driver safety plan under s. 343.30 (1q) (c);

SECTION 16. 303.08 (10m) of the statutes is created to read:

303.08 (10m) The sheriff may not permit a prisoner who is imprisoned for a violation of s. 346.63 (1), (2), (5)

or (6) to leave the jail under sub. (1) if the prisoner fails to obtain the assessment or to comply with the driver safety plan ordered under s. 343.30 (1q) (c). This subsection does not apply if the prisoner does not have sufficient funds to make any payments necessary to obtain the assessment or to comply with the driver safety plan.

SECTION 16d. 340.01 (46m) (b) of the statutes is amended to read:

340.01 (46m) (b) If the person has 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), an alcohol concentration of 0.08 or more.

SECTION 16e. 340.01 (46m) (c) of the statutes is created to read:

340.01 (46m) (c) If the person has 3 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), an alcohol concentration of more than 0.02.

SECTION 16m. 342.12 (4) (a) of the statutes is amended to read:

342.12 (4) (a) The district attorney shall notify the department when he or she files a criminal complaint against a person who has been arrested for violating s. 346.63 (1) or (2), 940.09 (1) or 940.25 and who has 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1). Except as provided under par. (c), the department may not issue a certificate of title transferring ownership of any the motor vehicle owned by the person and involved in the violation upon receipt of a notice under this subsection until the court assigned to hear the criminal complaint issues an order permitting the department to issue a certificate of title.

SECTION 16p. 342.12 (4) (b) of the statutes is amended to read:

342.12 (4) (b) Except as provided under par. (c), the department may not issue a certificate of title transferring ownership of any the motor vehicle owned by a person and involved in the violation upon receipt of a notice of intent to revoke the person's operating privilege under s. 343.305 (9) (a), if the person has 2 3 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), until the court assigned to the hearing under s. 343.305 (9) issues an order permitting the department to issue a certificate of title.

SECTION 16r. 342.12 (4) (c) 1. (intro.) of the statutes is amended to read:

342.12 (4) (c) 1. (intro.) The department shall issue a certificate of title transferring ownership of a motor vehicle that was ~~owned by a person who has received a notice of intent to revoke the person's operating privilege under s. 343.305 (9) (a) or has been arrested for violating s. 346.63 (1) or (2), 940.09 (1) or 940.25 and who has 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), subject to the restrictions under par. (a) or (b)~~ if all of the following conditions are met:

SECTION 17. 343.10 (5) (a) 3. of the statutes is amended to read:

343.10 (5) (a) 3. If the applicant has 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), the occupational license of the applicant shall restrict the applicant's operation under the occupational license to vehicles that are equipped with a functioning ignition interlock device if the court has ordered under s. 346.65 (6) (a) 1., 1997 stats., that a motor vehicle owned by the person be equipped with an ignition interlock device. A person to whom a restriction under this subdivision applies violates that restriction if he or she requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device. If the occupational license restricts the applicant's operation to a vehicle that is equipped with an ignition interlock device, the applicant shall be liable for the reasonable costs of equipping the vehicle with the ignition interlock device.

SECTION 19. 343.23 (2) (b) of the statutes is amended to read:

343.23 (2) (b) The information specified in par. (a) must be filed by the department so that the complete operator's record is available for the use of the secretary in determining whether operating privileges of such person shall be suspended, revoked, canceled or withheld in the interest of public safety. The record of suspensions, revocations and convictions that would be counted under s. 343.307 (2) shall be maintained ~~for 10 years, except that if there are 2 or more suspensions, revocations or convictions within any 10-year period, the record shall be maintained permanently.~~ The record of convictions for disqualifying offenses under s. 343.315 (2) (h) shall be maintained for at least 10 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (f) shall be maintained for at least 3 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall be maintained permanently, except that 5 years after a licensee transfers residency to another state such record may be transferred to another state of licensure of the licensee if that state accepts responsibility for maintaining a permanent record of convictions for disqualifying offenses. Such reports and records may be cumulative beyond the period for which a license is granted, but the secretary, in exercising the power of suspension or revocation granted under s. 343.32 (2) may consider only those reports and records entered during the 4-year period immediately preceding the exercise of such power of suspension or revocation.

SECTION 21m. 343.30 (1q) (b) 1. of the statutes is amended to read:

343.30 (1q) (b) 1. The Except as provided in subds. 3. and 4., the court shall suspend or revoke the person's

operating privilege under this paragraph according to the number of previous suspensions, revocations or convictions that would be counted under s. 343.307 (1). Suspensions, revocations and convictions arising out of the same incident shall be counted as one. If a person has a conviction, suspension or revocation for any offense that is counted under s. 343.307 (1), that conviction, suspension or revocation shall count as a prior conviction, suspension or revocation under this subdivision.

SECTION 22. 343.30 (1q) (b) 3. of the statutes is amended to read:

343.30 (1q) (b) 3. Except as provided in subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspensions and revocations counted under s. 343.307 (1) within a 10-year period, equals 2, the court shall revoke the person's operating privilege for not less than one year nor more than 18 months. After the first 60 days of the revocation period, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment and is complying with the driver safety plan ordered under par. (c).

SECTION 22m. 343.30 (1q) (b) 4. of the statutes is amended to read:

343.30 (1q) (b) 4. Except as provided in subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspensions and revocations counted under s. 343.307 (1), equals 3 or more, the court shall revoke the person's operating privilege for not less than 2 years nor more than 3 years. After the first 90 days of the revocation period, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment and is complying with the driver safety plan ordered under par. (c).

SECTION 25. 343.30 (6) (b) (intro.) of the statutes, as affected by 1997 Wisconsin Act 84, is amended to read:

343.30 (6) (b) (intro.) If a court imposes suspension of a person's operating privilege under s. 125.07 (4) (bs) or (c), 346.93 (2f) or (2g) or 938.344 (2), (2b) or (2d), the suspension imposed shall be one of the following:

SECTION 26. 343.301 of the statutes is created to read:

343.301 Installation of ignition interlock device or immobilization of a motor vehicle. (1) IGNITION INTERLOCK. (a) If a person improperly refuses to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1) or 940.25, and the person has a total of one or more prior convictions, suspensions or revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and other convictions, suspensions and revocations counted under s. 343.307 (1), the court may order that the person's operating privilege for the operation of "Class D" vehicles be restricted to operating "Class D" vehicles that are equipped with an ignition interlock device.

(b) The court may restrict the operating privilege restriction under par. (a) for a period of not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation.

(c) If the court restricts the person's operating privilege under par. (a), the person shall be liable for the reasonable cost of equipping and maintaining any ignition interlock device installed in his or her motor vehicle.

(d) A person to whom a restriction under this subsection applies violates that restriction if he or she requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device.

(2) **IMMOBILIZATION.** (a) If a person improperly refuses to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1) or 940.25, and the person has a total of one or more prior convictions, suspensions or revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and other convictions, suspensions and revocations counted under s. 343.307 (1), the court may order that the motor vehicle used during the refusal or violation and owned by the person be immobilized.

(b) The court may order the immobilization under par. (a) for a period of not less than one year nor more than the maximum operating privilege revocation period permitted for the refusal or violation.

(c) If the court orders that the person's motor vehicle be immobilized, the person shall be liable for the reasonable cost of equipping and maintaining any immobilization device installed on his or her motor vehicle.

(d) The court shall notify the department, in a form and manner prescribed by the department, that an order to immobilize a motor vehicle has been entered. The registration records of the department shall reflect that the order has been entered against the motor vehicle and remains unexecuted. Any law enforcement officer may execute that order based on the information provided by the department. The law enforcement agency shall notify the department when an order has been executed under this paragraph and the department shall amend its vehicle registration records to reflect that notification.

(e) Within 10 days after immobilizing a motor vehicle under par. (d), the law enforcement agency that immobilized the vehicle shall provide notice of the immobilization to all lienholders of record. The notice shall set forth the year, make, model and vehicle identification number of the motor vehicle, where the motor vehicle is located and the reason for the immobilization.

SECTION 34m. 343.305 (10) (b) 1. of the statutes is amended to read:

343.305 (10) (b) 1. The Except as provided in subds. 3. and 4., the court shall revoke the person's operating

privilege under this paragraph according to the number of previous suspensions, revocations or convictions that would be counted under s. 343.307 (2). Suspensions, revocations and convictions arising out of the same incident shall be counted as one. If a person has a conviction, suspension or revocation for any offense that is counted under s. 343.307 (2), that conviction, suspension or revocation shall count as a prior conviction, suspension or revocation under this subdivision.

SECTION 35. 343.305 (10) (b) 3. of the statutes is amended to read:

343.305 (10) (b) 3. Except as provided in subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspensions and revocations counted under s. 343.307 (2) within a 10-year period, equals 2, the court shall revoke the person's operating privilege for 2 years. After the first 90 days of the revocation period, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment and is complying with the driver safety plan.

SECTION 35m. 343.305 (10) (b) 4. of the statutes is amended to read:

343.305 (10) (b) 4. Except as provided in subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspensions and revocations counted under s. 343.307 (2), equals 3 or more, the court shall revoke the person's operating privilege for 3 years. After the first 120 days of the revocation period, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment and is complying with the driver safety plan.

SECTION 38. 343.305 (10m) of the statutes is amended to read:

343.305 (10m) **REFUSALS; SEIZURE, IMMOBILIZATION OR IGNITION INTERLOCK OF A MOTOR VEHICLE.** If the person whose operating privilege is revoked under sub. (10) has 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), the procedure under s. 346.65 ~~(6)~~ 343.301 shall be followed ~~regarding if the court orders the immobilization or seizure and forfeiture of a motor vehicle owned by the person or the equipping of a the motor vehicle used in the commission of the offense and owned by the person or if the court requires that the person's operating privilege for the operation of "Class D" vehicles be restricted to operating "Class D" vehicles equipped with an ignition interlock device. If the number of convictions under ss. 940.09 (1) and 940.25 in the lifetime of the person whose operating privilege is revoked under sub. (10), plus the total number of other convictions, suspensions and revocations counted under s. 343.307 (1), equals 2 or more, the procedure under s. 346.65 (6) shall be followed if the court orders the seizure and forfeiture of the motor vehicle used in the improper refusal and owned by the person.~~

SECTION 39m. 343.31 (3) (bm) 1. of the statutes is amended to read:

343.31 (3) (bm) 1. The Except as provided in subds. 3. and 4., the department shall suspend or revoke the person's operating privilege under this paragraph according to the number of previous suspensions, revocations or convictions that would be counted under s. 343.307 (1). Suspensions, revocations and convictions arising out of the same incident shall be counted as one. If a person has a conviction, suspension or revocation for any offense that is counted under s. 343.307 (1), that conviction, suspension or revocation shall count as a prior conviction, suspension or revocation under this subdivision.

SECTION 40. 343.31 (3) (bm) 3. of the statutes is amended to read:

343.31 (3) (bm) 3. Except as provided in subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and other convictions counted under s. 343.307 (1) within a 10-year period, equals 2, the department shall revoke the person's operating privilege for not less than one year nor more than 18 months. If an Indian tribal court in this state revokes the person's privilege to operate a motor vehicle on tribal lands for not less than one year nor more than 18 months for the conviction specified in par. (bm) (intro.), the department shall impose the same period of revocation. After the first 60 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

SECTION 41m. 343.31 (3) (bm) 4. of the statutes is amended to read:

343.31 (3) (bm) 4. Except as provided in subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other suspensions, revocations and convictions counted under s. 343.307 (1), equals 3 or more, the department shall revoke the person's operating privilege for not less than 2 years nor more than 3 years. If an Indian tribal court in this state revokes the person's privilege to operate a motor vehicle on tribal lands for not less than 2 years nor more than 3 years for the conviction specified in par. (bm) (intro.), the department shall impose the same period of revocation. After the first 90 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

SECTION 43. 346.65 (2) (b) of the statutes is amended to read:

346.65 (2) (b) Except as provided in ~~par. pars. (f) and (g),~~ shall be fined not less than ~~\$300~~ \$350 nor more than ~~\$1,000~~ \$1,100 and imprisoned for not less than 5 days nor more than 6 months if the ~~total number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of~~ suspensions, revocations and ~~other~~ convictions counted under s. 343.307 (1) ~~within a 10-year period,~~ equals 2 ~~within a 10-year period.~~ ~~Suspensions, except that suspensions,~~ revocations or convic-

tions arising out of the same incident or occurrence shall be counted as one.

SECTION 44. 346.65 (2) (c) of the statutes is amended to read:

346.65 (2) (c) Except as provided in ~~par. pars. (f) and (g),~~ shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and ~~other~~ convictions counted under s. 343.307 (1), equals 3, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

SECTION 45. 346.65 (2) (d) of the statutes is amended to read:

346.65 (2) (d) Except as provided in ~~par. pars. (f) and (g),~~ shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 60 days nor more than one year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and ~~other~~ convictions counted under s. 343.307 (1), equals 4, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

SECTION 46. 346.65 (2) (e) of the statutes is amended to read:

346.65 (2) (e) Except as provided in ~~par. pars. (f) and (g),~~ shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 6 months nor more than 5 years if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and ~~other~~ convictions counted under s. 343.307 (1), equals 5 or more, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

SECTION 47. 346.65 (2) (g) of the statutes is created to read:

346.65 (2) (g) 1. If a person convicted had an alcohol concentration of 0.17 to 0.199, the applicable minimum and maximum fines under pars. (c) to (e) are doubled.

2. If a person convicted had an alcohol concentration of 0.20 to 0.249, the applicable minimum and maximum fines under pars. (c) to (e) are tripled.

3. If a person convicted had an alcohol concentration of 0.25 or above, the applicable minimum and maximum fines under pars. (c) to (e) are quadrupled.

SECTION 49. 346.65 (2e) of the statutes is amended to read:

346.65 (2e) If the court determines that a person does not have the ability to pay the costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), (d), (e) ~~or~~ (f) ~~or~~ (g), the court may reduce the costs, fine and forfeiture imposed and order the person to pay, toward the cost of

the assessment and driver safety plan imposed under s. 343.30 (1q) (c), the difference between the amount of the reduced costs and fine or forfeiture and the amount of costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), (d), (e) ~~or~~ (f) or (g).

SECTION 50. 346.65 (2g) (a) of the statutes is amended to read:

346.65 (2g) (a) In addition to the authority of the court under s. 973.05 (3) (a) to provide that a defendant perform community service work for a public agency or a nonprofit charitable organization in lieu of part or all of a fine imposed under sub. (2) (b) to ~~(f) (g) and except as provided in par. (ag)~~, the court may provide that a defendant perform community service work for a public agency or a nonprofit charitable organization in lieu of part or all of a forfeiture under sub. (2) (a) or may require a person who is subject to sub. (2) to perform community service work for a public agency or a nonprofit charitable organization in addition to the penalties specified under sub. (2).

(am) Notwithstanding s. 973.05 (3) (b), an order under par. (a) or (ag) may only apply if agreed to by the organization or agency. The court shall ensure that the defendant is provided a written statement of the terms of the community service order and that the community service order is monitored. Any organization or agency acting in good faith to which a defendant is assigned pursuant to an order under this subsection has immunity from any civil liability in excess of \$25,000 for acts or omissions by or impacting on the defendant. The issuance or possibility of the issuance of a community service order under this subsection does not entitle an indigent defendant who is subject to sub. (2) (a) to representation by counsel under ch. 977.

SECTION 51. 346.65 (2g) (ag) of the statutes is created to read:

346.65 (2g) (ag) If the court determines that a person does not have the ability to pay a fine imposed under sub. (2) (b) to (g), the court shall require the defendant to perform community service work for a public agency or a nonprofit charitable organization in lieu of paying the fine imposed or, if the amount of the fine was reduced under sub. (2e), in lieu of paying the remaining amount of the fine. Each hour of community service performed in compliance with an order under this paragraph shall reduce the amount of the fine owed by an amount determined by the court.

SECTION 52. 346.65 (2g) (b) of the statutes is amended to read:

346.65 (2g) (b) The court may require a person ordered to perform community service work under par. (a) or (ag), or under s. 973.05 (3) (a) if that person's fine resulted from violating s. 346.63 (2), 940.09 (1) or 940.25, to participate in community service work that demonstrates the adverse effects of substance abuse or of operating a vehicle while under the influence of an intoxicant or other drug, including working at an alcoholism treatment facility approved under s. 51.45, an emergency room of a general hospital or a driver awareness program under s. 346.637. The court may order the person to pay a reasonable fee, based on the person's ability to pay, to offset the cost of establishing, maintaining and monitoring the community service work ordered under this paragraph.

If the opportunities available to perform community service work are fewer in number than the number of defendants eligible under this subsection, the court shall, when making an order under this paragraph, give preference to defendants who were under 21 years of age at the time of the offense. All provisions of par. ~~(a)~~ (am) apply to any community service work ordered under this paragraph.

SECTION 53. 346.65 (2g) (c) of the statutes is amended to read:

346.65 (2g) (c) If there was a minor passenger under 16 years of age in the motor vehicle or commercial motor vehicle at the time of the violation that gave rise to the conviction, the court may require a person ordered to perform community service work under par. (a) or (ag), or under s. 973.05 (3) (a) if that person's fine resulted from violating s. 346.63 (2), (5) (a) or (6) (a), 940.09 (1) or 940.25, to participate in community service work that benefits children or that demonstrates the adverse effects on children of substance abuse or of operating a vehicle while under the influence of an intoxicant or other drug. The court may order the person to pay a reasonable fee, based on the person's ability to pay, to offset the cost of establishing, maintaining and monitoring the community service work ordered under this paragraph.

SECTION 54. 346.65 (2j) (b) of the statutes is amended to read:

346.65 (2j) (b) Except as provided in par. (d), shall be fined not less than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months if the total number of prior convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspension and revocations counted under s. 343.307 (2) within a 10-year period, equals 2 within a 10-year period.

SECTION 54m. 346.65 (2j) (c) of the statutes is amended to read:

346.65 (2j) (c) Except as provided in par. (d), shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one year in the county jail if the total of prior number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspensions and revocations counted under s. 343.307 (2), equals 3 or more.

SECTION 55b. 346.65 (2w) of the statutes is amended to read:

346.65 (2w) In determining the number of prior convictions for purposes of sub. (2j), the court shall count

convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus other suspensions, revocations and convictions that would be counted under s. 343.307 (2). Revocations, suspensions and convictions arising out of the same incident or occurrence shall be counted as one. The time period shall be measured from the dates of the refusals or violations which resulted in the revocation, suspension or convictions. If a person has a conviction under s. 940.09 (1) or 940.25 in the person's lifetime, or another suspension, revocation or conviction for any offense that is counted under s. 343.307 (2), that suspension, revocation or conviction shall count as a prior suspension, revocation or conviction under this section.

SECTION 56g. 346.65 (6) (a) 1. of the statutes is amended to read:

346.65 (6) (a) 1. Except as provided in this paragraph, ~~the~~ The court may order a law enforcement officer to seize a the motor vehicle used in the violation or improper refusal and owned by the person, or, if the motor vehicle is not ordered seized, shall order a law enforcement officer to equip the motor vehicle with an ignition interlock device or immobilize any motor vehicle owned by the person, whose operating privilege is revoked under s. 343.305 (10) or who committed a violation of s. 346.63 (1) (a), (b) or (2) (a) 1. or 2., 940.09 (1) (a), or (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d) if the person whose operating privilege is revoked under s. 343.305 (10) or who is convicted of the violation has 2 or more prior suspensions, revocations or convictions that would be, counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus other convictions, suspensions or revocations counted under s. 343.307 (1). The court ~~shall~~ may not order a motor vehicle seized, equipped with an ignition interlock device or immobilized if that would result in undue hardship or extreme inconvenience or would endanger the health and safety of a person.

SECTION 56j. 346.65 (6) (a) 1. of the statutes, as affected by 1999 Wisconsin Act (this act), is amended to read:

346.65 (6) (a) 1. The court may order a law enforcement officer to seize the motor vehicle used in the violation or improper refusal and owned by the person, ~~or, if the motor vehicle is not ordered seized, shall order a law enforcement officer to equip the motor vehicle with an ignition interlock device or immobilize any motor vehicle owned by the person,~~ whose operating privilege is revoked under s. 343.305 (10) or who committed a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d) if the person whose operating privilege is revoked under s. 343.305 (10) or who is convicted of the violation has 2 or more prior suspensions, revocations or convictions that would be, counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus other convictions, suspensions or revocations counted under s.

343.307 (1). The court may not order a motor vehicle seized, ~~equipped with an ignition interlock device or immobilized~~ if that would result in undue hardship or extreme inconvenience or would endanger the health and safety of a person.

SECTION 57. 346.65 (6) (a) 2. of the statutes is repealed.

SECTION 58. 346.65 (6) (a) 2m. of the statutes is amended to read:

346.65 (6) (a) 2m. A person who owns a motor vehicle subject to seizure, ~~equipping with an ignition interlock device or immobilization~~ under this paragraph shall surrender to the clerk of circuit court the certificate of title issued under ch. 342 for every the motor vehicle ~~owned by the person that is subject to seizure.~~ The person shall comply with this subdivision within 5 working days after receiving notification of this requirement from the district attorney. When a district attorney receives a copy of a notice of intent to revoke the operating privilege under s. 343.305 (9) (a) of a person who has 2 or more prior convictions, suspensions or revocations, as counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus other convictions, suspensions or revocations counted under s. 343.307 (1), or when a district attorney notifies the department of the filing of a criminal complaint against a person under s. 342.12 (4) (a), the district attorney shall notify the person of the requirement to surrender ~~all certificates~~ the certificate of title to the clerk of circuit court. The notification shall include the time limits for that surrender, the penalty for failure to comply with the requirement and the address of the clerk of circuit court. The clerk of circuit court shall promptly return ~~each~~ the certificate of title surrendered to the clerk of circuit court under this subdivision after stamping the certificate of title with the notation "Per section 346.65 (6) of the Wisconsin statutes, ownership of this motor vehicle may not be transferred without prior court approval". Any person failing to surrender a certificate of title as required under this subdivision shall forfeit not more than \$500.

SECTION 59. 346.65 (6) (a) 3. of the statutes is amended to read:

346.65 (6) (a) 3. The court shall notify the department, in a form and manner prescribed by the department, that an order to ~~equip a motor vehicle with an ignition interlock device, to immobilize a motor vehicle or to~~ seize a motor vehicle has been entered. The registration records of the department shall reflect that the order has been entered against the vehicle and remains unexecuted. Any law enforcement officer may execute that order and shall transfer any motor vehicle ordered seized to the law enforcement agency that was originally ordered to seize the vehicle based on the information provided by the department. The law enforcement agency shall notify the department when an order has been executed under this

subdivision and the department shall amend its vehicle registration records to reflect that notification.

SECTION 60. 346.65 (6) (b) of the statutes is amended to read:

346.65 (6) (b) Within 10 days after seizing or immobilizing a motor vehicle under par. (a), the law enforcement agency that seized or immobilized the vehicle shall provide notice of the seizure or immobilization by certified mail to the owner of the motor vehicle and to all lienholders of record. The notice shall set forth the year, make, model and serial number of the motor vehicle, where the motor vehicle is located, the reason for the seizure or immobilization, and the forfeiture procedure if the vehicle was seized. When a motor vehicle is seized under this section, the law enforcement agency that seized the vehicle shall place the motor vehicle in a secure place subject to the order of the court.

SECTION 61. 346.65 (6) (c) of the statutes is amended to read:

346.65 (6) (c) The district attorney of the county where the motor vehicle was seized, or where the owner improperly refused to take the test under s. 343.305 or violated s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d), shall commence an action to forfeit the motor vehicle within 30 days after the motor vehicle is seized. The action shall name the owner of the motor vehicle and all lienholders of record as parties. The forfeiture action shall be commenced by filing a summons, complaint and affidavit of the law enforcement agency with the clerk of circuit court. Upon service of an answer, the action shall be set for hearing within 60 days after the service of the answer. If no answer is served or no issue of law or fact joined and the time for that service or joining of issues has expired, the court may render a default judgment as provided in s. 806.02.

SECTION 62. 346.65 (6) (d) of the statutes is amended to read:

346.65 (6) (d) At the hearing set under par. (c), the state has the burden of proving to a reasonable certainty by the greater weight of the credible evidence that the motor vehicle seized under par. (a) 1. is a motor vehicle used in the violation or the improper refusal and owned by a person who committed a violation of s. 346.63 (1) (a) or (b) or (2) (a) 1. or 2., 940.09 (1) (a), (b), (c) or (d) or 940.25 (1) (a), (b), (c) or (d) and, if the seizure is under par. (a) 1., that the person had 2 or more prior convictions, suspensions or revocations, as counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus other convictions, suspensions or revocations counted under s. 343.307 (1) or, if the seizure is under par. (a) 2., 3 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1). If the, (c) or (d), (e) or (d) state fails to meet the burden of proof required under this paragraph, the motor vehicle shall be returned to the owner upon the payment of storage costs.

SECTION 62b. 346.65 (6) (f) of the statutes is amended to read:

346.65 (6) (f) If a motor vehicle forfeited and sold under this subsection is owned ~~in whole or~~ in part by a person other than the person who committed the violation or refusal under par. (a), any moneys remaining from the sale, after making any payment to the lienholders under par. (em) and as provided in par. (e) 1. to 4., shall be paid to that person to the extent of the person's interest in the motor vehicle.

SECTION 62d. 346.65 (6) (k) of the statutes is amended to read:

346.65 (6) (k) Except as provided in par. (km), no person may transfer ownership of any motor vehicle that is subject to ~~immobilization or seizure or to equipping with an ignition interlock device~~ under this subsection or make application for a new certificate of title under s. 342.18 for the motor vehicle unless the court determines that the transfer is in good faith and not for the purpose of or with the effect of defeating the purposes of this subsection. The department may cancel a title or refuse to issue a new certificate of title in the name of the transferee as owner to any person who violates this paragraph.

SECTION 62h. 346.65 (6) (m) of the statutes is repealed.

SECTION 63. 346.655 (1) of the statutes is amended to read:

346.655 (1) ~~On or after July 1, 1988, if~~ If a court imposes a fine or a forfeiture for a violation of s. 346.63 (1) or (5), or a local ordinance in conformity therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall impose a driver improvement surcharge in an amount of \$340 ~~\$345~~ in addition to the fine or forfeiture, penalty assessment, jail assessment and crime laboratories and drug law enforcement assessment.

SECTION 64. 346.655 (2) (a) of the statutes is amended to read:

346.655 (2) (a) Except as provided in par. (b), the clerk of court shall collect and transmit the amount under sub. (1) to the county treasurer as provided in s. 59.40 (2) (m). The county treasurer shall then make payment of 37.6% ~~38.5%~~ of the amount to the state treasurer as provided in s. 59.25 (3) (f) 2.

SECTION 65. 346.655 (2) (b) of the statutes is amended to read:

346.655 (2) (b) If the forfeiture is imposed by a municipal court, the court shall transmit the amount to the treasurer of the county, city, town or village, and that treasurer shall make payment of 37.6% ~~38.5%~~ of the amount to the state treasurer as provided in s. 66.12 (1) (b). The treasurer of the city, town or village shall transmit the remaining 62.4% ~~61.5%~~ of the amount to the treasurer of the county.

SECTION 67. 346.93 (2f) of the statutes is created to read:

346.93 (2f) Except as provided in sub. (2g), any person violating this section may have his or her operating privilege suspended under s. 343.30 (6) (b) 1.

SECTION 68. 346.93 (2g) of the statutes is created to read:

346.93 (2g) Any person violating this section may be required to forfeit not less than \$20 nor more than \$400 and shall have his or her operating privilege:

(a) For a violation committed within 12 months of one previous violation, suspended under s. 343.30 (6) (b) 2.

(b) For a violation committed within 12 months of 2 or more previous violations, suspended under s. 343.30 (6) (b) 3.

SECTION 69. 346.95 (2) of the statutes is amended to read:

346.95 (2) Any person violating s. 346.89 (1), 346.93 or 346.94 (2), (4) or (7) may be required to forfeit not less than \$20 nor more than \$400.

SECTION 70. 347.413 (1) of the statutes is amended to read:

347.413 (1) No person may remove, disconnect, tamper with or otherwise circumvent the operation of an ignition interlock device installed in response to the court order under s. 346.65 (6), 1997 stats., or s. 343.301 (1). This subsection does not apply to the removal of an ignition interlock device upon the expiration of the order requiring the motor vehicle to be so equipped or to necessary repairs to a malfunctioning ignition interlock device by a person authorized by the department.

SECTION 71. 347.413 (2) of the statutes is repealed.

SECTION 72. 347.417 (1) of the statutes is amended to read:

347.417 (1) No person may remove, disconnect, tamper with or otherwise circumvent the operation of any immobilization device installed in response to a court order under s. 346.65 (6), 1997 stats., or s. 343.301 (2). This subsection does not apply to the removal of an immobilization device pursuant to a court order or to necessary repairs to a malfunctioning immobilization device.

SECTION 73. 347.417 (2) of the statutes is amended to read:

347.417 (2) The department shall design a warning label which shall be affixed by the owner of each immobilization device before the device is used to immobilize any motor vehicle under s. 346.65 (6), 1997 stats., or s. 343.301 (2). The label shall provide notice of the penalties for removing, disconnecting, tampering with or otherwise circumventing the operation of the immobilization device.

SECTION 77m. 800.03 (4) of the statutes is amended to read:

800.03 (4) Notwithstanding sub. (1), a court appearance is may be required by a municipality for a violation of a local ordinance in conformity with s. 346.63 (1). If a person fails to make a required appearance under this

subsection and the judge issues an arrest warrant, the law enforcement agency which filed or transmitted the uniform traffic citation shall file a detailed description of the warrant with the department of justice.

SECTION 80. 938.344 (2) (b) of the statutes is amended to read:

938.344 (2) (b) For a violation committed within 12 months of a one previous violation, a forfeiture of not more than \$100, ~~suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 2.~~ or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g). In addition, the juvenile's operating privilege may be suspended as provided under s. 343.30 (6) (b) 2., except that if the violation of s. 125.07 (4) (b) involved a motor vehicle the juvenile's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 2.

SECTION 81. 938.344 (2) (c) of the statutes, as affected by 1997 Wisconsin Act 84, is amended to read:

938.344 (2) (c) For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than \$500, ~~suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 3.~~ or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g). In addition, the juvenile's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation of s. 125.07 (4) (b) involved a motor vehicle the juvenile's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.

SECTION 82. 938.344 (2b) (b) of the statutes is amended to read:

938.344 (2b) (b) For a violation committed within 12 months of a one previous violation, a forfeiture of not less than \$300 nor more than \$500, ~~suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 2.~~ or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g). In addition, the juvenile's operating privilege may be suspended as provided under s. 343.30 (6) (b) 2., except that if the violation involved a motor vehicle the juvenile's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 2.

SECTION 83. 938.344 (2b) (c) of the statutes, as affected by 1997 Wisconsin Act 84, is amended to read:

938.344 (2b) (c) For a violation committed within 12 months of 2 or more previous violations, a forfeiture of \$500, ~~suspension of the juvenile's operating privilege as provided under s. 343.30 (6) (b) 3.~~ or the juvenile's participation in a supervised work program or other community service work under s. 938.34 (5g). In addition, the juvenile's operating privilege may be suspended as provided under s. 343.30 (6) (b) 3., except that if the violation involved a motor vehicle the juvenile's operating privilege shall be suspended as provided under s. 343.30 (6) (b) 3.

SECTION 84. 940.09 (1d) of the statutes is renumbered 940.09 (1d) (b) and amended to read:

940.09 (1d) (b) If the person who committed an offense under sub. (1) (a), (b), (c) or (d) has 2 or more prior convictions, suspensions or revocations, as counting convictions under sub. (1) and s. 940.25 in the person's lifetime plus other convictions, suspensions or revocations counted under s. 343.307 (1), the procedure under s. 346.65 (6) ~~may shall~~ be followed ~~regarding the immobilization or if the court orders the~~ seizure and forfeiture of a motor vehicle owned by the person who committed the offense ~~or the equipping of a motor vehicle owned by the person with an ignition interlock device.~~

SECTION 85. 940.09 (1d) (a) of the statutes is created to read:

940.09 (1d) (a) If a person who committed an offense under sub. (1) (a), (b), (c) or (d) has one or more prior convictions, suspensions and revocations, counting convictions, under sub. (1) and s. 940.25 in the person's lifetime plus other convictions, suspensions or revocations counted under s. 343.307 (1), the procedure under s. 343.301 shall be followed if the court orders the equipping of a motor vehicle owned by the person with an ignition interlock device or the immobilization of the motor vehicle.

SECTION 86. 940.25 (1d) of the statutes is renumbered 940.25 (1d) (b) and amended to read:

940.25 (1d) (b) If the person who committed the offense under sub. (1) (a), (b), (c) or (d) has 2 or more prior convictions, suspensions or revocations, as counting convictions under this section and s. 940.09 (1) in the person's lifetime plus other convictions, suspensions or revocations counted under s. 343.307 (1), the procedure under s. 346.65 (6) ~~may shall~~ be followed ~~regarding the immobilization or if the court orders the~~ seizure and forfeiture of a motor vehicle owned by the person who committed the offense ~~or the equipping of a motor vehicle owned by the person with an ignition interlock device.~~

SECTION 87. 940.25 (1d) (a) of the statutes is created to read:

940.25 (1d) (a) If a person who committed an offense under sub. (1) (a), (b), (c) or (d) has one or more prior convictions, suspensions or revocations, counting convictions under this section and s. 940.09 (1) in the person's lifetime plus other convictions, suspensions or revocations counted under s. 343.307 (1), the procedure under s. 343.301 shall be followed if the court orders the the equipping of a motor vehicle owned by the person with an ignition interlock device or the immobilization of the motor vehicle.

SECTION 88. Nonstatutory provisions.

(1) The departments of corrections, health and family services and transportation shall jointly study and evaluate the desirability of using treatment programs and other alternatives to incarceration as a way to reduce the length of incarceration or the need for incarceration of persons

convicted of a 2nd or subsequent violation of operating a motor vehicle while under the influence on an intoxicant, controlled substance or other drug. The departments shall consult with the counties regarding this study and evaluation. No later than the first day of the 9th month beginning after the effective date of this subsection, the departments shall jointly submit a report to the legislature in the manner provided under section 13.172 (2) of the statutes that contains the conclusions of the departments' study and evaluation and any recommendations concerning implementation of the conclusions.

(2) The department of transportation and the department of health and family services shall study jointly and evaluate the effectiveness of using ignition interlock devices and vehicle immobilization as methods of reducing the prevalence of drunk driving and the recidivism of drunk-driving offenders. The departments shall consult with the counties, the law enforcement agencies, the courts and the providers of services to alcohol abusers regarding this study and evaluation. No later than the first day of the 24th month beginning after the effective date of section 343.301 of the statutes, as created in this act, the department shall submit a report to the legislature in the manner provided under section 13.172 (2) of the statutes that contains the conclusions of the departments' study and evaluation and any recommendations concerning implementation of the conclusions.

(3) The department of transportation shall submit in proposed form the rules required under section 110.10 of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than February 1, 2001, and shall promulgate the rules no later than November 30, 2001, unless action by the legislature under chapter 227 of the statutes prevents the department from meeting this deadline.

SECTION 89. Appropriation changes.

(1) PRETRIAL INTOXICATED DRIVER INTERVENTION GRANTS. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of transportation under section 20.395 (5) (jr) of the statutes, as affected by the acts of 1999, the dollar amount is increased by \$314,700 for fiscal year 2000-01 to provide additional funding for grants under the pretrial intoxicated driver intervention grant program.

SECTION 90. Initial applicability.

(1) MANDATORY OPERATING PRIVILEGE SUSPENSIONS. The treatment of sections 125.07 (4) (bs) 2., 3. and 4., (c) 2., 3. and 4. and (e) 2. (intro.), 343.30 (6) (b) (intro.), 346.93 (2g), 346.95 (2) and 938.344 (2) (b) and (c) and (2b) (b) and (c) of the statutes first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for sentencing a person or for suspending or revoking a person's operating privilege.

(2) INTOXICATED DRIVER PROGRAMS. The treatment of sections 340.01 (46m) (b) and (c), 343.23 (2) (b), 343.30

(1q) (b) 1., 3. and 4., 343.305 (10) (b) 1., 3. and 4., 343.31 (3) (bm) 1. and 3. and 4., 346.65 (2) (b), (c), (d), (e) and (g), (2e), (2g) (a), (ag), (b) and (c), (2j) (b) and (c) and (2w) of the statutes first applies to violations committed or refusals occurring on the effective date of this subsection, but does not preclude the counting of other convictions, suspensions or revocations as prior convictions, suspensions or revocations for purposes of administrative action by the department of transportation, sentencing by a court or determining the prohibited alcohol concentration.

(3) **IGNITION INTERLOCK AND IMMOBILIZATION.** The treatment of sections 342.12 (4) (a), (b) and (c) 1. (intro.), 343.10 (5) (a) 3., 343.301, 343.305 (10m), 346.65 (6) (a) 1. (by SECTION 56j), 2m. and 3. and (b), (d), (k) and (m), 347.413 (1) and (2), 347.417 (1) and (2), 940.09 (1d) (a) and 940.25 (1d) (a) of the statutes and the renumbering of sections 940.09 (1d) and 940.25 (1d) of the statutes first apply to violations committed or refusals occurring on the effective date of this subsection, but does not preclude the counting of other convictions, suspensions or revocations as prior convictions, suspensions or revocations for purposes of administrative action by the department of transportation or sentencing by a court.

(4) **INTOXICATED DRIVER IMPROVEMENT SURCHARGE.** The treatment of sections 20.395 (5) (ek), 20.435 (6) (hx) and 346.655 (1) and (2) (a) and (b) of the statutes first applies to intoxicated driver improvement surcharges

imposed for violations committed on the effective date of this subsection.

(5) **MUNICIPAL COURT APPEARANCE AND SEIZURE OF MOTOR VEHICLE.** The treatment of sections 346.65 (6) (a) 1. (by SECTION 56g) and 2., (c), (d) and (f) and 800.03 (4) of the statutes first applies to violations committed or refusals occurring on the effective date of this subsection, but does not preclude the counting of other convictions, suspensions or revocations as prior convictions, suspensions or revocations for purposes of administrative action by the department of transportation or sentencing by a court.

SECTION 91. Effective dates. This act takes effect on January 1, 2001, except as follows:

(1) The treatment of section 110.10 (10) of the statutes and SECTION 88 (3) of this act take effect on October 1, 2000.

(2) The treatment of sections 342.12 (4) (a), (b) and (c) 1. (intro.), 343.10 (5) (a) 3., 343.301, 343.305 (10m), 346.65 (6) (a) 1. (by SECTION 56j), 2m. and 3. and (b), (k) and (m), 347.413 (1) and (2), 347.417 (1) and (2), 940.09 (1d) (a) and 940.25 (1d) (a) of the statutes, the renumbering of sections 940.05 (1d) and 940.25 (1d) of the statutes and SECTION 90 (3) of this act take effect on January 1, 2002.

(3) The treatment of sections 346.65 (6) (a) 1. (by SECTION 56g) and 2., (c), (d) and (f) and 800.03 (4) of the statutes and SECTION 90 (5) of this act take effect on the first day of the 2nd month beginning after publication.
